

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN
MILWAUKEE DIVISION

TRACY KLEIN,

Case No. 14-cv-338

Plaintiff,

vs.

ALLY FINANCIAL INC, F/K/A GMAC
INC.,

Defendant.

COMPLAINT

NOW COMES, Plaintiff, Tracy Klein, by and through her attorneys, DeLadurantey Law Office, LLC, and complains of Defendant, Ally Financial Inc. f/k/a GMAC Inc. and alleges to the best of her knowledge, information and belief formed after an inquiry reasonable under the circumstances, the following:

INTRODUCTION

Nature of the Action

1. This lawsuit arises from a credit report dispute.
2. Causes of Action herein are brought under the Fair Credit Reporting Act, 15 U.S.C. § 1681 *et seq.*

Jurisdiction and Venue

3. Plaintiff brings this action for alleged violation of the Fair Credit Reporting Act, 15 U.S.C. § 1681 *et seq.* (hereinafter “FCRA”).

4. This Court has jurisdiction over the claims arising under the FCRA under 28 U.S.C. § 1331, because this case arises under the laws of the United States.

5. This Court also has jurisdiction under 15 U.S.C. § 1681(p) as it is an action to enforce liability created by the FCRA within two years from the date on which the violation occurred.

6. Venue in this Court is appropriate pursuant to 28 U.S.C. § 1391(b)(1), because this is where the Defendant reside. Under 28 U.S.C. § 1391(c), a defendant corporation shall be deemed to reside in any judicial district in which it is subject to personal jurisdiction.

Parties

7. Plaintiff Tracy Klein (hereinafter “Ms. Klein”) is a natural person who resides in the City of Elkhorn, County of Walworth, State of Wisconsin, and is a “consumer” as that term is defined by 15 U.S.C. § 1692a(3).

8. Defendant Ally Financial Inc. f/k/a GMAC Inc. (hereinafter “Defendant Ally”) is a foreign business with a principal office of 200 Renaissance Center, P.O. Box 200, Detroit, MI 48265, and a registered agent of CT Corporation System, 8040 Excelsior Dr., Ste. 200, Madison, WI 53717.

9. Defendant Ally is a “furnisher” of consumer information pursuant to 15 U.S.C. § 1681s-2(b).

Factual Allegations

10. In or around April 2002, Ms. Klein signed a car loan with Defendant Ally.
11. The car loan was 60 months in duration, making the last payment due in or around May 2007.
12. Recently, Ms. Klein received a copy of her credit report and was surprised to find that the account was still being reported with a past due amount.
13. If anything was owed, it is past the applicable statute of limitations of six years as set forth in Wis. Stat. 893.43.
14. On or around February 25, 2014, Ms. Klein sent dispute letters to each of the three Consumer Reporting Agencies (Equifax Information Services, LLC; Experian Information Solutions, Inc.; and Trans Union, LLC). **See Exhibit A.**
15. As a result of the dispute sent to Equifax Information Services, LLC, Defendant Ally verified that the balance was being reported correctly. **See Exhibit B.**
16. As a result of the dispute sent to Experian Information Solutions, Inc., Defendant Ally continued to report a balance. **See Exhibit C.**
17. At this point in time, Ms. Klein is seeking to finance a mortgage.
18. The incorrect information regarding a past due amount on her credit report is preventing her from obtaining financing.

Count 1 – Violations of the Fair Credit Reporting Act (15 U.S.C. §1681, *et seq.*)

19. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

20. Defendant Ally prepared, compiled, issued, assembled, and communicated inaccurate, erroneous, and blatantly false consumer information regarding Plaintiff, as defined in the Fair Credit Reporting Act.

21. Defendant Ally violated 15 U.S.C. § 1681s-2(b) by failing to conduct a reasonable investigation with respect to the disputed information, by failing to review all relevant information available, and by failing to update Ms. Klein's credit report to accurately reflect that they could no longer collect on the alleged debt.

22. As a result of Defendant Ally's failures to correct their erroneous and derogatory credit reporting, Ms. Klein suffered reduced credit access, credit denial, increased cost to borrow, inability to refinance, emotional distress, embarrassment, helplessness, hopelessness, loss of sleep, frustration, anxiety, and fear, constituting actual damages pursuant to 15 U.S.C. §§ 1681b(a)(3)(A) and 1681o(a)(1).

23. Because Defendant Ally repeatedly disregarded notices pertaining to the status of the account, violations of 15 U.S.C. § 1681s-2(b) were willful, entitling Plaintiff to statutory and punitive damages pursuant to 15 U.S.C. § 1681n(a).

24. Plaintiff is entitled to attorney's fees and costs pursuant to 15 U.S.C. §§ 1681n(a)(3) and 1681o(a)(2).

Trial by Jury

25. Plaintiff is entitled to, and hereby respectfully demands a trial by jury on all issues so triable.

PRAYER FOR RELIEF

WHEREFORE, Ms. Klein prays that judgment be entered against Defendants for:

- A. Statutory and punitive damages in an amount to be determined at trial against Defendant pursuant to 15 U.S.C. §§ 1681n and 1681o;
- B. Actual damages suffered by Plaintiff as a result of the FCRA violations by all Defendants in an amount to be determined at trial;
- C. Costs and reasonable attorneys' fees pursuant to 15 U.S.C. §1681 et seq. against all Defendant; and
- D. Any other relief that is just and proper.

Dated this 26th day of March, 2014.

DeLadurantey Law Office, LLC

s/ Nathan E. DeLadurantey

Nathan E. DeLadurantey (WI# 1063937)

Heidi N. Miller (WI# 1087696)

DeLadurantey Law Office, LLC

735 W. Wisconsin Ave, Suite 720

Milwaukee, WI 53233

(414) 377-0515; (414) 755-0860 – Fax

Nathan@de-la-law.com


Heidi@de-la-law.com

VERIFICATION OF COMPLAINT AND CERTIFICATION

STATE OF WISCONSIN)
) ss
COUNTY OF MILWAUKEE)

Plaintiff Tracy Klein, having first been duly sworn and upon oath, deposes and says as follows:

1. I am a Plaintiff in this civil proceeding.
2. I have read the above-entitled civil Complaint prepared by my attorneys and I believe that all of the facts contained in it are true, to the best of my knowledge, information and belief formed after reasonable inquiry.
3. I believe that this civil Complaint is well grounded in fact and warranted by existing law or by a good faith argument for the extension, modification, or reversal of existing law.
4. I believe that this civil Complaint is not interposed for any improper purpose, such as to harass any Defendant(s), cause unnecessary delay to any Defendant(s), or create a needless increase in the cost of litigation to any Defendant(s), named in the Complaint.
5. I have filed this civil Complaint in good faith and solely for the purposes set forth in it.
6. Each and every exhibit I have provided to my attorneys which has been attached to this Complaint is a true and correct copy of the original.
7. Except for clearly indicated redactions made by my attorneys where appropriate, I have not altered, changed, modified, or fabricated these exhibits, except that some of the attached exhibits may contain some of my own handwritten notations.


Tracy Klein

Subscribed and sworn to before me
this 26th day of March, 2014.

Heidi M. Hür

Notary Public

My commission is permanent

